

**ORDINANCE \_\_\_\_\_**

AN ORDINANCE relating to Shoreline Street End permits; amending the current Seattle Department of Transportation Street Use Fee Schedule by revising the Shoreline Street End permit fee methodology, and repealing Section 1 and Attachment A of Ordinance 119673, Shoreline Street End Permit Fee Methodology; and ratifying and confirming certain prior acts.

WHEREAS, by Resolution 29370, the City Council adopted policies guiding the development of public access improvements to Shoreline Street Ends, requiring their preservation as public right-of-way, establishing criteria to evaluate the suitability of a shoreline street end for public use improvements, and providing that new private use permits will be granted only when there is not a proposal for a shoreline street end improvement; and

WHEREAS, by Ordinance 119673, the City clarified the policy for the Shoreline Street End program and designated a Shoreline Street End permit type, and a fee methodology in the Street Use Permit Fee Schedule; and

WHEREAS, Section 15.04.074 of the Seattle Municipal Code authorizes and directs the Seattle Department of Transportation (SDOT) Director to prepare and recommend to the City Council, for passage by ordinance, a schedule of fees applicable to all street and sidewalk use permits (referred to as the Street Use Permit Fee Schedule), commensurate with the cost of administration, review, inspection, and policing involved in the issuance and continuance of such permits and the use thereby granted; and

WHEREAS, Section 15.04.074 of the Seattle Municipal Code specifies that fees for use of the public right-of-way may take into consideration the City's policy of discouraging encroachments inconsistent with the public's right of access to the shorelines or right-of-way; and

WHEREAS, the City of Seattle's Comprehensive Plan establishes goals for industrial areas that include preserving industrial land for industrial uses and supporting growth in the industrial and manufacturing employment base; and

WHEREAS, Attachment A to Ordinance 119673 authorized the City Appraiser to establish the Street Use permit land values based on multiple properties surrounding a shoreline street end; and

WHEREAS, the SDOT Director has prepared and recommended the repeal of Section 1 and Attachment A of the Shoreline Street End Fee Methodology Ordinance 119673 and proposed an amendment to the Street Use Fee Schedule for a new Shoreline Street End to provide transparency and to simplify program administration; NOW, THEREFORE,

## Attachment A: Street Use Permit Fee Schedule

Per ordinance or council action				
Use Code	Use Description	Base Permit Fee	Occupation Fee (Long Term)	Use Fee (Short Term)
11	Shoreline street ends [land portion]	<del>((Fees determined by ordinance))</del> <u>((Land value) x (Use area) x (Rate of return) x (Demand probability) x (Maritime Industrial Use Discount Factor) = Annual fee</u>  <u>\$140 minimum fee</u>		
* * *				

For Shoreline Street End permits, the value of the use area in the right-of-way shall be based on the abutting parcel's current land value per square foot as determined by the King County Assessor. If the use area extends beyond the centerline of the right-of-way or abuts multiple parcels,

the permit fee shall be calculated for each portion of the use area according to the current value of the abutting parcels. If one of the abutting parcels is publicly-owned, the permit fee for that portion of the use area abutting the publicly-owned parcel shall be calculated using the value of the privately owned parcel abutting the largest portion of the use area occupying the right-of-way.

Use area: Square footage of the permitted encroachment in the right-of-way, as authorized by Seattle Department of Transportation.

Rate of return: Annualized rate of return on market value of the right-of-way, as established by the City Appraiser or a State of Washington Certified General Real Estate Appraiser retained by the Director of Transportation.

Degree of alienation: For Term permits, the degree of impact on the public, utilities, right-of-way, and other potential uses of the right-of-way based on City policy, as established by Seattle Department of Transportation. Refer to Table A: Degree of Alienation Factor.

Demand probability For Shoreline Street End permits, the estimated demand of probable use shall be based on factors that include, but are not limited to, location, access, size, view, and topography; as established by the City Appraiser or a State of Washington Certified General Real Estate Appraiser retained by the Director of Transportation. Refer to Attachment A: Demand Probability Factor. The Director of Transportation is authorized to update Attachment A based upon the recommendations of the City Appraiser or a State of Washington Certified General Real Estate Appraiser. The new Demand Probability Factor shall become effective when the updated Demand Probability Factor is adopted by rule.

Maritime Industrial Use Discount Factor To support the City's policies of protecting its maritime uses, a 50 percent discount factor shall apply to that portion of the Shoreline Street End occupied by a legally-established water-dependant or water-related use as defined in Seattle Municipal Code Section 23.60.944.

The Department of Transportation is directed to use the shoreline street end permit fees credited to the Transportation Operating Fund for the following purposes:

- (a) Notifying property owners that abut shoreline street ends of the need for permits for private use of the street end and of the fee schedule;
- (b) Administering and inspecting shoreline street end use;
- (c) Verifying property boundaries and area of use;
- (d) Matching funds for neighborhood improvements of shoreline street ends for public use;
- (e) Signing, demarcating, and maintaining shoreline street ends;
- (f) Funding street and sidewalk improvements within a half-block radius of any of the shoreline street ends identified in Exhibit A to Resolution 29370 that directly contribute to public access to the shoreline street end.

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Section 2. Attachment A and Section 1 of the Shoreline Street Ends Permit Fee Methodology Ordinance 119673, which is shown in Attachment B of this ordinance, is repealed.

Section 3. Shoreline Street End permit fee implementation schedule. Shoreline Street End permits existing on the effective date of this ordinance shall have new annual fees applied starting on January 1, 2011 as authorized in Section 4 of this ordinance. All new Shoreline Street End permits that may be approved by the Director of Transportation after the effective date of this ordinance shall have the annual fees applied using the new methodology adopted in Section 1 of this ordinance.

Section 4. Shoreline Street End permit fee phase-in schedule. Annual Shoreline Street End permit fees for existing Shoreline Street End permits shall be phased in over a four -year period from 2011 through 2014. Starting in January 2011, the annual permit fee will increase by 25 percent of the difference between the 2010 annual Shoreline Street End permit fee and the new Shoreline Street End permit fee based on the Shoreline Street End permit fee methodology. In 2012, the annual Shoreline Street End permit fee will increase to 50 percent of the difference between the 2010 annual Shoreline Street End permit fee and the 2012 permit fee based on the Shoreline Street End permit fee methodology. In 2013, the annual Shoreline Street End permit fee will increase to 75 percent of the difference between the 2010 annual Shoreline Street End permit fee and the 2013 permit fee based on the Shoreline Street End permit fee methodology. Starting in January 2014, the annual Shoreline Street End permit fee will increase to the full new annual Shoreline Street End permit fee based on the Shoreline Street End permit fee methodology. By the end of 2014, the phase-in period will be complete and all existing Shoreline Street End permits will be determined using the Shoreline Street End permit fee methodology on an annual cycle.

The new annual Shoreline Street End permit fee authorized by this ordinance will be applied starting in January 2011 and will not be phased in if the fee is less than the 2010 annual Shoreline Street End permit fee for an existing Shoreline Street End permit, or a new permit for an existing Shoreline Street End use is issued after the effective date of this ordinance.

Section 5. Sections 3 and 4 of this ordinance shall apply retroactively to the extent necessary to ensure their application to periods of time occurring before the effective date of this

1 ordinance. In no event shall a Shoreline Street End permit be subject to an annual fee or fees for  
2 2011 in a total amount that exceeds the fee authorized by Sections 3 and 4 of this ordinance.

3 Section 6. Severability. The provisions of this ordinance are declared to be separate and  
4 severable. The invalidity of any portion of this ordinance, or the invalidity of its application to  
5 any person or circumstance, shall not affect the validity of the remainder of this ordinance, or the  
6 validity of its application to other persons or circumstances.

7  
8 Section 7. Ratify and Confirm. Any act consistent with the authority of this ordinance  
9 taken prior to its effective date is ratified and confirmed.

10 Section 8. This ordinance shall take effect and be in force 30 days from and after its  
11 approval by the Mayor, but if not approved and returned by the Mayor within ten days after  
12 presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

13 Passed by the City Council the \_\_\_\_ day of \_\_\_\_\_, 2011, and  
14 signed by me in open session in authentication of its passage this \_\_\_\_ day of \_\_\_\_ 2011.  
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18 \_\_\_\_\_  
President \_\_\_\_\_ of the City Council

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20 Approved by me this \_\_\_\_ day of \_\_\_\_\_, 2011.  
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22 \_\_\_\_\_  
23 Michael McGinn, Mayor

24 Filed by me this \_\_\_\_ day of \_\_\_\_\_, 2011.  
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Monica Martinez Simmons, City Clerk

(Seal)

Attachment A: Demand Probability Factor

Attachment B: Section 1 and Attachment A of Ordinance 119673